

401 Water Quality Certification - New Federal Requirements

I. Pre-filing Meeting Request

a. Why is this Pre-Filing Meeting Request Required?

The U.S. Environmental Protection Agency (EPA) published its Clean Water Act Section 401 Certification Rule in the Federal Register on July 13, 2020. It took effect on September 11, 2020. The federal rule requires that all project proponents submit a Pre-Filing Meeting Request to the certifying authority at least 30 days prior to submitting a Section 401 Water Quality Certification request (Certification Request).

b. How to Submit a Pre-Filing Meeting Request

To simplify the process, the project proponent only needs to send an email to the Water Quality Certification and Wetlands Section at: wqcwetlands@dhec.sc.gov. Please include in the subject line the following: **“Pre-filing Meeting Request - County – [project title].”** If staff determine that a pre-filing meeting is needed, staff will schedule a meeting with the applicant/agent. Please be prepared to discuss the project and potential water quality impacts. If staff determine that a pre-filing meeting is not needed, the applicant/agent will be notified and ***a Section 401 certification request to the Department may be submitted after 30 days from the date of the request.***

c. Information to be Included in the Pre-Filing Meeting Request:

- Project Name
- Project Location
- Waterbody
- Total Wetland Impacts Proposed (if applicable)
- Total Stream Impacts Proposed (if applicable) – This must be provided in linear feet
- Total Excavation Proposed (if Applicable)
- Applicant/Agent Contact Information

II. Certification Request

a. How to Submit a Certification Request

The new EPA rule requires a Certification Request to be sent concurrently to DHEC and the Federal agency. To send the Certification Request to DHEC, simply use the same address noted above (wqcwetlands@dhec.sc.gov). Please include in the subject line the following: **“Certification Request -Project Title and Federal Permit Number.”**

Where the Federal agency is the U.S. Army Corps of Engineers (Corps), Certification Requests should be sent concurrently to the following depending on your project location:

Charleston Corps District Office: SAC.RD.Charleston@usace.army.mil Projects in Orangeburg, Dorchester, Bamberg, Barnwell, Allendale, Hampton, Beaufort, Charleston and Berkeley Counties

Columbia Corps Field Office: SAC.RD.Columbia@usace.army.mil Projects in York, Chester, Lancaster, Fairfield, Kershaw, Newberry, Richland, Lexington, Saluda, Edgefield, McCormick, Aiken,

Conway Corps Field Office: SAC.RD.Conway@usace.army.mil Projects in Chesterfield, Marlboro, Dillon, Darlington, Marion, Lee, Florence, Sumter, Clarendon, Williamsburg, Georgetown

Greenville Corps Field Office: SAC.RD.Greenville@usace.army.mil Projects in Oconee, Pickens, Spartanburg, Cherokee, Union, Laurens, Anderson, Abbeville, Greenwood

b. Information to be Included with the Certification Request

To comply with the new EPA rule as well as DHEC regulations, the following items need to be included with the Certification Request:

1. A copy of the Federal permit or license application.
2. A copy of the Joint Public Notice (for Corps projects only)
3. Documentation that a pre-filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request.
4. The following statement, "The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief."
5. The following statement, "The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time."

III. For more information:

EPA's 401 rule:

<https://www.epa.gov/cwa-401/final-rule-clean-water-act-section-401-certification-rule>

Charleston District, Corps of Engineers Guidance on The Clean Water Act 401 Certification Rule:

[https://www.sac.usace.army.mil/Portals/43/docs/regulatory/publicnotices/SAC Public Notice 401 Water Quality Certification CAP CZM Process 3 FEB 2021.pdf?ver=77_gcdBSS3TNNAMQAZV0pQ%3d%3d](https://www.sac.usace.army.mil/Portals/43/docs/regulatory/publicnotices/SAC%20Public%20Notice%20401%20Water%20Quality%20Certification%20CAP%20CZM%20Process%203%20FEB%202021.pdf?ver=77_gcdBSS3TNNAMQAZV0pQ%3d%3d)